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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/630,139

07/31/2003

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41838

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12/04/2009

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EXAMINER

ZERVIGON, RUDY

ART UNIT

PAPER NUMBER

1792

MAIL DATE

DELIVERY MODE

12/04/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Continuation of Substance of Interview including description of the general nature of what was discussed: The Examiner called Mr. Yoder to request an RCE including a terminal disclaimer to overcome the Examiner's BPAI affirmed rejections. As of December 2, 2009, Mr. Yoder did not return the Examiner's phone call or comply with the suggestion. The cited portion of MPEP 804(I)(B) does not address BPAI affirmed rejections as being one of the only pending rejections. Further, the Examiner counters with 37CFR41.54 - "After decision by the Board, the proceeding will be returned to the examiner, subject to appellant's right of appeal or other review, for such further action by appellant or by the examiner, as the condition of the proceeding may require, ****to carry into effect the decision***". Thus, the decision by the BPAI is a complete affirmation of the Examiner's rejections. Applicant has not sought the Examiner's suggested course of action within the period for a court review. As a result, the Application is abandoned..